IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3684 OF 2007
IN
LAND ACQUISITION REFERENCE NO.2 OF 2006

The Special Land Acquisition Officer (3)

And

World Renewal Spiritual Trust ..Claimant

And

The Deputy Chief Engineer ..Acquiring body

None for the Special Land Acquisition Officer (3)
Mr.M.A.Shah i/b.A.G.Shah for the claimant

CORAM : A.S.OKA, J.

DATE : 29TH SEPTEMBER, 2007

P.C.

1. Not on board.

2. Taken on board.

3. I have heard learned counsel appearing for the claimant in support of his Notice of Motion. The present reference is under Section 18 of the Land Acquisition Act, 1894. The first witness of

the claimant has already filed an affidavit in lieu of examination-in-chief. By order dated 18th January, 2007 this Court appointed a practising advocate as a Court Commissioner for recording the evidence. In further order dated 10th August, 2007, this Court recorded that though a Court Commissioner was appointed for recording of cross examination of the witness examined by the claimant, no progress has been made in recording of the evidence. By order dated 17th September, 2007, this Court recorded that the claimant has not co-operated and therefore, the evidence of the claimant shall be treated as closed. Accordingly, the reference was ordered to be placed today for hearing of arguments.

4. In the affidavit in support of this Notice of Motion filed by Haridas Devji Bhanushali it is stated that the claimant is a public trust duly registered under the Bombay Public Trusts Act, 1950. In the affidavit in support it is stated that after order dated 18th January, 2007 was passed, he lost track of the matter. It is stated

that the claimant trust has been established by Bramhakumaris which is having office at Mount Abu. It is stated that the head of the said institution was not keeping well and she ultimately passed away.

5. The prayer in the Notice of Motion is for re-calling the order dated 17th September, 2007.

6. In view of the averments made in the Notice of Motion, order dated 17th September, 2007 passed by this Court directing that the evidence of the claimant shall be treated as closed deserves to be re-called. Accordingly, I pass the following order.

(i) Order dated 17th September, 2007 is hereby re-called and the claimant is permitted to lead the evidence. The witness of the claimant has already filed an affidavit in lieu of examination-in-chief. The Commissioner, who was appointed under the order dated 18th January, 2007 to record the evidence of the said witness of the claimant.

(ii) It is made clear that the claimant and their witnesses will co-operate with the Court Commissioner for recording the evidence expeditiously.

(iii) The claimant will approach the learned Court Commissioner for fixing the schedule for recording of evidence.

(iv) The Commissioner will submit his report with regard to progress made in recording of evidence on or before 22nd November, 2007. The Land Acquisition Reference shall be listed on 26th November, 2007 under the caption “Directions”.

(v) Notice of Motion is disposed of accordingly.

(**A.S.OKA, J.**)